IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.6078 OF 2006

1. Shivaji Bhagwan Vyawahare,
   Age 60, Occ: Agriculture
   (for himself and P.A. of
   Petitioner Nos.2 to 9)

2. Nagnadh Baburao Kamble,
   Age 35 years, Occ: Agriculture

3. Shivayya Channayya Swami,
   Age 35 years, Occ: Agriculture

4. Amin Pirubhai Nadaf,
   Age 40 years, Occ: Agriculture

5. Bismillah Amin Nadaf,
   Age 35 years, Occ: Agriculture

6. Shivaji Bhairu Chavan,
   Age 50 years, Occ: Agriculture

7. Bhimrao Dagdu Chavan
   Age 45 years, Occ: Agriculture

8. Devanand Shrimanth Vaghmare,
   Age 24 years, Occ: Agriculture

9. Piraji Rama Chavan,
   Age 60 years, Occ: Agriculture

All residing at Village Vadapur,
Tal. South Solapur, Dist: Solapur. .... Petitioners

- Versus -

1. Sidram Bhagwan Yadav,
   age adult, Occ: Agriculture,
   residing at Village Vadapur,
   Tal. South Solapur,
   Dist: Solapur.

2. The Tahsildar, South Solapur,
   Dist: Solapur.

3. The State of Maharashtra .... Respondents

Shri Shrishail Sakhare, Advocate, for the
Petitioners.

Shri C.R. Sonawane, Asst. Government Pleader,
for the Respondent Nos.2 and 3.

AND

WRIT PETITION NO.6079 OF 2006

1. Smt. Parvati S. Vyawahare,
   Age 50 years, Occ: Household

2. Vishnu Shivaji Vyawahare,
   Age 30 years, Occ: Agriculture

3. Smt. Gourabai Chanbasappa
   Harekar, Age 50 years,
   Occ: Household

4. Chanbasappa Devgond Harekar,
   Age 55 years, Occ: Agriculture

5. Malappa Shankar Birajdar,
   Age 42 years, Occ: Agriculture

6. Sidram Shankar Birajdar,
   Age 59 years, Occ: Agriculture

7. Mohan Baburao Chavan,
   Age 42 years, Occ: Agriculture

8. Lakappa Mareppa Ghadage,
   Age 65 years, Occ: Agriculture

9. Baburao Rama Chavan,
   Age 5 years, Occ: Agriculture

10. Bhimrao Balkrishna Randive,
    Age 60 years, Occ: Agriculture

11. Gajanan Shankar Birajdar,
    Age 35 years, Occ: Agriculture

12. Rajaram Bhairu Chavan,
    Age 40 years, Occ: Agriculture

All residing at Village Vadapur,
Tal. South Solapur, Dist: Solapur. .... Petitioners

- Versus -

1. Sidram Bhagwan Yadav,

age adult, Occ: Agriculture,
residing at Village Vadapur,
Tal. South Solapur,
Dist: Solapur.

2. The Tahsildar, South Solapur,
Dist: Solapur.

3. The State of Maharashtra .... Respondents

Shri Shrishail Sakhare, Advocate, for the Petitioners.

Shri C.R. Sonawane, Asst. Government Pleader, for the Respondent Nos.2 and 3.

CORAM: R.M.S. KHANDEPARKAR &
V.M. KANADE, JJ.

DATED: SEPTEMBER 13, 2006

ORAL JUDGMENT (Per R.M.S. Khandeparkar, J.):

1. Since common questions of law and facts arise in both the petitions, they were heard together and are being disposed of by this common judgment.

2. Heard. Rule. By consent, rule made returnable forthwith.

3. The grievance of the petitioners is that while the matter regarding the rights of the parties to be in occupation of the land in question is still to be decided by the competent authority, without such decision being delivered, the authority is trying to dispossess the petitioners from the suit land.

4. Perusal of the Notices dated 28-8-2006 apparently disclose that the matter regarding the hearing about the rights of the parties to be in possession of the property in question is yet to be decided and appropriate decision in that regard is yet to be taken by the competent authority. Being so, the petitioners are justified in contending that without such decision, the respondent-authority could not have issued the Notices dated 28-8-2006 asking the petitioners to vacate the suit land. On this count itself, the petitions are bound to succeed.

5. In the result, therefore, the petitions succeed. The respondents are directed to dispose of the proceedings pending before the concerned authority regarding the issue pertaining to the claim of the parties to be in possession of the property and only after appropriate decision in that regard, take further steps including the recovery of possession, if any, in accordance with the provisions of law.

6. Further, both the Notices dated 28-8-2006 directing the delivery of possession of the plots mentioned therein, are hereby quashed and the respondents are directed to dispose of the proceedings in terms of the Notices dated 29-8-2006, the copies whereof are annexed as Exhibit-F to the respective petitions, as

expeditiously as possible and in accordance with the provisions of law and only thereafter to take appropriate steps as permissible under the law.

7. The petitioners to appear before the concerned authority for further proceedings in that regard on 25-9-2006 at 11:00 a.m.. The rule in both the petitions is made absolute in above terms with no order as to costs.

(V.M. Kanade, J.) (R.M.S. Khandeparkar, J.)

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